

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE:	*	CASE NO. 99-10119 ESL
SANTOS SURITA ACOSTA		
CARMEN CRUZ SILVA		
DEBTORS		
SANTOS SURITA ACOSTA	*	
CARMEN CRUZ SILVA		
PLAINTIFF		ADVERSARY CASE NO.
VS.		
REPARTO SAMAN, INC	*	11-00146 ESL
DEFENDANT		

*

**MOTION REQUESTING RECONSIDERATION
OF JUDGMENT DISMISSING CASE**

TO THE HONORABLE COURT:

Now comes, Santos Surita Acosta and Carmen Cruz Silva , plaintiff/debtors, through their undersigned attorney and very respectfully pray and state as follows:

1. On March 26, 2013 this Honorable Court entered an order dismissing this case for failure to file proposed finding of facts and conclusions of law 7 days prior to a hearing which was scheduled for April 30, 2013. Said order was notified on May 1, 2013. Subsequently on May 1, 2013 this Honorable Court entered a judgment dismissing this case. The same was notified on May 3, 2013.

2. Plaintiffs hereby respectfully requested that said order and judgment be vacated and set aside on the following grounds:

a) Plaintiffs had substantially complied with the filing of a statement of uncontested facts on June 20, 2012. That statement was granted by this Honorable Court in July 19, 2012.

b) On February 11, 2013 plaintiff supplemented said statement in several aspects as previously requested by this Honorable Court. On said date we also informed this Honorable Court that we have been trying to contact counsel for defendant in order to comply with the requirements of Local Bankruptcy Rule 7026. No reply whatsoever was made to this claim by defendant attorney.

c) After said date we made innumerable efforts to contact defendants counsel. These include personal visits to his office, phone calls and letters. We were never received in his office since he claimed be too busy to talk to the undersigned.

d) Our last effects to contact said counsel by telephone were made on April 17, 18 and 19, 2013. On April 18, 2013 his secretary told us that he had just arrived and would be returning our call in 10 minutes which he never did.

e) Previously, on April 8, 2013, the undersigned attorney by letter requested a meeting and including the specific dates that we were available. Copy of the same is herewith included.

f) Again on April 23, 2013 the undersigned mailed another letter to the same subject and advising plaintiffs counsel we would file an explanatory motion informing his failure to answer our requests.

g) On April 24, 2013 the undersigned attorney met personally with Mr. Luis Roberto Santos Báez in the Ponce Courthouse for another case in which we represented opposing parties. After said case we discussed the issues pending in this case. There we reached several agreements. These included that the undersigned would neither file an informative motion nor requests sanctions against defendants and his counsel. They also included that defendant would pay the undersigned attorney the fees that were approved by this

Honorable Court, the case will be settled for an additional amount of \$15,000.00 and that defendant will withdraw from the Registry of the Property the mortgage deed which motivated this case.

h. We were to inform the settlement on the hearing set for April 30, 2013. The only question that was pending to be settled was the period of time needed by defendants to make the payments. We had also proposed to make a private settlement and file a motion for voluntary dismissal, but no final agreement was reached in relation to this.

i. We should note that Attorney Víctor Ramírez de Arellano, who is a codefendant in the other case we had on that date with the counsel for defendants was present during the above described settlement agreement and is available to testify on the above referred parts.

j. The undersigned was to make a draft of the agreement reached to be forwarded to the opposing counsel on the 26th of April, but the same was not possible due to the fact that it was Secretary's day and our office was closed. On that same date the case was dismissed.

k. On April 29, 2013 we spoke over the telephone with Mr. Santos Báez and requested that we file a joint motion explaining the above facts. He promised to answer on that same day, but he did not. On the following days we have repeatedly called Mr. Santos Báez to his office and cellular telephone but he never answered.

3. The above mentioned facts shows that the undersigned has substantially complied with the orders of this Honorable Court and that there are clear indication that counsel for defendants has acted in bad faith and failed to comply his duties with this Honorable Court.

4. We should also note that this Honorable Court has previously entered summary judgment in favor of plaintiffs and the requested of attorney's fees and the elimination of the mortgage on debtors' house was later adjudicated. As to these question the complaint is res

judicata and cannot be vacated by this Honorable Court by a dismissal of the whole adversary proceeding.

20 Days Notice: You are hereby notified that you have twenty days(20) from the date this Notice to file an opposition to the foregoing motion and request a hearing. If no opposition is filed within the prescribed period of time, the paper will be deemed unopposed and may be granted without further hearing unless(1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the court, the interest of justice requires otherwise. If a timely opposition is filed, the court will schedule a hearing as a contested matter.

WHEREFORE, it is respectfully requested from this Honorable Court that the judgment dismissing this case be vacated and set aside.

CERTIFICATE OF SERVICE: I HEREBY CERTIFY that copy of this motion was sent electronically through the CM/ECF System to US Trustee, Wigberto Lugo Mender, Chapter 7 Trustee and to Attorney for Reparto Saman, Luis Roberto Santos.

In Mayaguez, Puerto Rico, this 8th day of May, 2013.

/s/Alberto O. Lozada Colón

**Alberto O. Lozada Colón
USDCPR 123811
PO Box 430
Mayaguez, PR 00681
Tel. 787-833-6323 Fax 833-7725
alberto3@coqui.net**